

WAR GRAVES

*Exchange of notes at Budapest June 18, July 15, and August 9, 1946
Entered into force August 9, 1946*

61 Stat. 3898; Treaties and Other
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The American Legation to the Ministry for Foreign Affairs

LEGATION OF THE UNITED STATES OF AMERICA

No. 221

The American Legation presents its compliments to the Ministry for Foreign Affairs and has the honor to submit for the consideration of the Hungarian Government the text of a bi-lateral agreement which the United States Government desires to conclude with the Hungarian Government concerning the interment of American military personnel in Hungary.

"The following shall govern relative to the disposal of the remains of deceased persons who were citizens of the United States and/or who served or who accompanied the armed forces of the United States and are now buried in Hungary or any possession or territory now or hereafter subject to the control of the Hungarian Government.

"1. The United States, through its duly designated representatives, shall have the following rights, privileges and prerogatives:

"A. The Government of the United States shall have the right to establish and maintain such temporary cemeteries as are necessary for the burial of deceased persons subject to its control and to make exhumations therefrom for repatriation or concentration into other cemeteries abroad, and may move bodies from other countries into and/or through Hungary and its territories and possessions for interment and/or transshipment.

"B. The Government of the United States shall be exempt from all national, local, or other laws and/or regulations relating to the permits for disinterments; sanitation, upon an assurance that such work will be conducted in a manner not detrimental to public health; and from the payment of any duties, taxes, or fees of any kind required for the burial, disinterment for reburial or movement of bodies or the maintenance of graves.

"C. The Government of the United States shall have the right of free entrance and exit for all personnel, supplies, transportation (air, mail, animal, motor, and water) serving or belonging to the United States and the use of air fields, port facilities, warehousing, living quarters, office space, rail and water transportation and the right to employ labor in Hungary, its territories and possessions, essential to the accomplishment of its mission upon payment of just compensation therefor.

"D. The Government of the United States shall have the unrestricted right of search for the remains of members of its armed forces, and/or its citizens.

"E. The Government of the United States shall have the unrestricted right to examine and copy all records, military or civilian, which may be of assistance in locating the graves, or identifying the remains of its deceased military or civilian personnel.

"F. The Government of the United States shall have the right to question and examine citizens of Hungary and to take affidavits in furtherance of its search for, and identification of remains of members of its armed forces, and/or its citizens.

"2. The Government of Hungary will render all possible assistance in locating and securing the effects of deceased military and civilian personnel of the United States, and upon demand and the furnishing of a proper receipt will turn over to representatives of the United States all effects so located and secured.

"3. If in the future the Government of the United States wishes to establish permanent cemeteries or erect memorials in Hungary, the Hungarian Government will exercise its power of eminent domain to acquire title to such sites and grant to the United States the right to use therein in perpetuity upon payment by the United States of just compensation therefor. Any sites acquired including improvements thereto and buildings constructed thereon shall be exempt from any and all form of taxation, direct or indirect. The provisions of paragraphs 1-A, B, and C will apply in the construction and maintenance of such permanent cemeteries and memorials as may be desired."

The above proposed agreement in effect confirms an understanding between the United States Military Mission and the former Mayor of Budapest, Mr. Vas Zoltan. The Legation understands that in accordance with this agreement, the city of Budapest on September 14, 1945, issued Decree No. 179,880/1945 X establishing a temporary cemetery for American military personnel and that two letters signed by Mr. Vas dated September 7, 1945 (reference no. 179,249) and September 14, 1945 (reference no. 179,880) implemented this decree by assigning property and by directing the carrying out of arrangements for improvements and buildings.

The United States Government desires to emphasize that in proposing this bi-lateral agreement it is not its intention to make a permanent arrangement for the establishment of a military cemetery but only to assure the right of temporary burial.

The Legation would appreciate the courtesy of the Ministry for Foreign Affairs in advising it whether the agreement set out above is acceptable to the Hungarian Government and, if so, will be glad to receive as urgently as may be possible the confirmation of the Ministry to that effect so that the agreement represented by the present exchange of notes may be considered as being in force.

BUDAPEST,
June 18, 1946.

The Ministry for Foreign Affairs to the American Legation

103.606/10a-1946

VERBAL NOTE

The Hungarian Ministry for Foreign Affairs presents its compliments to the Legation of the United States of America and, with reference to the Legation's Note N° 221 of June 18th, 1946, concerning the conclusion of a bi-lateral agreement between the Hungarian Government and the United States Government on the interment of American military personnel in Hungary, has the honor to inform the hon. Legation that the Hungarian Government is ready to conclude a bi-lateral agreement with the United States Government by way of an exchange of Notes.

As to Art. 1 points A and B of the projected agreement/mentioned in the Legation's Note/ they are acceptable for the Hungarian Government without any objection. As to Point C of Art. 1 the Hungarian Government has the honor to remark that actually the right of free entrance to and exit from Hungary depends on the permission of the Allied Control Commission in Hungary even for citizens of the United Nations. This restriction also concerns the entrance and exit of supplies and transportations of any kind /air, mail, animal, motor and water/. It must be mentioned here that Hungarian air-ports are not all under the control of the Hungarian Government. The use of Hungarian air-ports shall be in any case subjected to the respect of the agreement with the Hungarian Russian Civilian Air-Transport Company.

Point D is acceptable for the Hungarian Government.

As to point E, the Hungarian Government has the honor to object that this point cannot be interpreted in the sense that the authorities of the United States shall have the *unrestricted* right to examine the Hungarian Archives. This point should be changed to the effect that the Hungarian authorities shall be obliged to submit to the American authorities for official use and

copying all records which may be of assistance in locating graves, or identifying the remains of deceased American military or civilian personnel.

Point F of the projected agreement/right to question and examine citizens of Hungary and to take affidavits in furtherance of its search for and identification of remains of members of its armed forces, and for its citizens/could be accepted with the restriction that declarations to be made under oath by Hungarian citizens can be carried out only by way of the competent Hungarian Tribunals of 1st instance/Justices of Peace/and therefore American authorities shall be obliged to address themselves to the competent Hungarian Tribunal/forum loci/.

In case the Government of the United States of America would be inclined to accept the above-mentioned restrictions the projected bi-lateral agreement could come into force on the day when the Hungarian Government will be informed of the acceptance of the said restrictions.

BUDAPEST, July 15th, 1946.

[SEAL]

The American Legation to the Ministry for Foreign Affairs

No. 294

LEGATION OF THE
UNITED STATES OF AMERICA

The Legation of the United States presents its compliments to the Hungarian Ministry for Foreign Affairs and has the honor to refer to the Ministry's note no. 103.606/-10a-1946 concerning the conclusion of the bi-lateral agreement between the Hungarian Government and the United States Government on the interment of American military personnel in Hungary.

The United States Government accepts the modifications of Article I, Sections E and F as proposed in the Ministry's note under reference. Accordingly the agreement as proposed in the Legation's note no. 221 of June 18, 1946 and as modified in the Ministry's note under reference is considered to be in effect from this date.

BUDAPEST

August 9, 1946.